

Appln. No. 09/717,767

Attorney Docket No. 5709-159

III. Remarks

Claims 1 through 4 and 6 through 19 are pending in the application. Claim 5 has been cancelled. Claims 1, 2, 9, 12 and 15 have been amended. No new claims have been added and 18 claims remain under consideration.

Rejections Under 35 USC §112

In the Office Action mailed August 23, 2004, claims 1 through 4 and 6 through 8 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner focused upon lines 8 through 9 of claim 1 as not being readily understood. Such less than ready understanding resulted from the inadvertent omission of a comma between the words "motor vehicle" and "at least." Said comma has been added by way of this Amendment and it is submitted that the claim can now be readily understood and that the rejection under 35 U.S.C. §112, second paragraph, has been overcome and should be withdrawn.

Rejections Under 35 USC §102

Turning then to the rejection on art, the Examiner has rejected claims 1 through 4, 6, 7, 9 through 17 and 19 under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,128,859 to Vance (Vance) and therefore unpatentable. Vance teaches a mechanically interlocked weatherstrip having a cover with a web which is received within one slot of an S-shaped body and includes a projection which is received within a complementary recess on the body. The body includes a second

BRINKS
HOFFER
GILSON
ELIOT

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oppositely directed slot which receives a flanged portion of a vehicle adjacent the second slot are wiper flanges which contact the glass light.

Applicants' attorney respectfully contravenes this rejection on several grounds. Viewed from a global perspective, the inventions are simply different. Vance relates to a body and cover which are mechanically interlocked, a feature which is achieved by complementarily configured projections and recesses at the point where one flange of the cover contacts the body. No such mechanical interlocking feature exists in Applicants' device.

Additionally, the end portion of the lower flange of the Vance cover directly contacts the adjacent vehicle panel. In Applicants' device, a flange extending from the lower portion of the body on its side opposite the wiper flanges includes both a recess for snugly receiving the end of the cover as well as a small flexible flange for engaging the adjacent body panel. One flange of the cover includes an end portion received within the recess. None of these three structures either appear in or are suggested by the Vance '859 reference. Accordingly, it appears not only that the Examiner's rejection is poorly supported but also that the claims are patentable.

In the latter regard, independent claims 9, 11 and 15 have been revised to improve their clarity and distinctness, particularly with regard to the arrangement of features on the two faces of the slotted body. Specifically, the claims have been revised to clarify that one of the slots receives the flange or edge of the motor vehicle and is adjacent the wiper or wiper flanges and the other slot receives the web of the cover and is adjacent the cover end receiving recess and flexible flange.

The invention is different and the claims recite elements simply neither found nor suggested in the applied reference. It is submitted that under a proper interpretation of 35 U.S.C. §102(e) and §103(a), the claims therefore recite patentable subject matter and should be allowed.

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The indication of allowability of claims 8 and 18 if rewritten in independent form and to overcome the rejections under 35 U.S.C. §112, second paragraph, are acknowledged. At the outset, Applicants' attorney inquires regarding the allowability of claim 14 which appears to be highly similar to claims 8 and 18. Second of all, Applicants' attorney through this Amendment has manifest his understanding and belief that claims broader than claims 8 and 18, independently rewritten, are allowable in the present action.

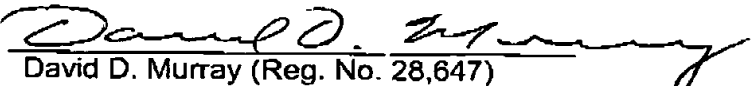
Entry of these revised claims under the provisions of 37 C.F.R. §1.116 is respectively requested. Such claims revisions were not previously undertaken in view of the belief that the previously submitted claims were patentable. Entry of these claims under the provisions of 37 C.F.R. §1.116 in order to place this application in better form for consideration on appeal or in order to conclude prosecution and achieve allowance is requested.

SUMMARY

Pending Claims 1 through 4 and 6 through 19, as amended, are patentable. Applicants respectfully request the Examiner grant early allowance of these claims. The Examiner is invited to contact the undersigned attorney for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

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Date


David D. Murray (Reg. No. 28,647)
Attorney for Applicants

BRINKS
HOFFER
GILSON
SLONE